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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1944

No. 684

COPPERWELD STEEL COMPANY,
Appellant

v.

THE INDUSTRIAL COMMISSION OF OHIO

APPEAL FROM THE SUPREME COURT OF THE STATE OF OHIO

STATEMENT OPPOSING JURISDICTION AND MOTION TO DISMISS OR AFFIRM

THOMAS J. HERBERT,
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Counsel for Appellee.

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Statement Opposing Jurisdiction

May It Please the Court:

The appellee, in opposing the jurisdiction of this court to review the above entitled cause, on appeal, respectfully represents:

I

The question of constitutionality was not properly raised in the Supreme Court of Ohio.

(A). Appellant challenged only the "decisions" of the appellee with respect to compensability of the claims in question.

(See opinion of Supreme Court of Ohio, attached as appendix to appellant's statement in support of juris-

diction of the Supreme Court of the United States; reported in 143 Ohio State 591.)

Live Oak Water Users' Association v. *Railroad Commission*, 269 U. S. 354, 358-59;
Ohio ex rel. Squire v. *Brown*, 312 U. S. 652.

(B) Appellant did not draw into question the validity of Section 1465-54, paragraph 3, General Code of Ohio.

State of Ohio, ex rel. Williams v. *Industrial Commission*, 116 Ohio State, 45.
State of Ohio, ex rel. Powhatan Mining Company v. *Industrial Commission*, 125 Ohio State 272.

II

The essence of the question involved in the appeal relates merely to procedure and remedy.

Louisville & Nashville Rd. v. *Schmidt*, 177 U. S., 230, 236;
Holmes v. *Conway*, 241 U. S., 624, 631-632;
Insurance Co. v. *Glidden*, 284 U. S., 151-158;
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Radium Dial Co. v. *Ryan*, 308 U. S., 504;
State of Ohio, ex rel. Jonak v. *White, et al.*, Members of the Industrial Commission of Ohio, 136 Ohio State, 213, 310 U. S., 609, 659.

(A) The right of appeal under the Ohio Workmen's Compensation Law is a statutory right and by legislative action such right may be given or denied.

Industrial Commission v. *Monroe*, 111 Ohio State 812, 813.

III

Procedure for enforcement of rights and remedy of wrongs is peculiarly a subject for state regulation and control. The exercise of this regulation and control is pre-

sumed to be constitutional. The statutory provision will be upheld unless it is clearly unreasonable and arbitrary.

State of Ohio, ex rel. Lourin, v. *Industrial Commission,* 138 Ohio State 618;

Jeffry Mfg. Co. v. *Blagg,* 235 U. S., 571;

Middleton v. *Texas Power & Light Co.,* 249 U. S., 152;

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State of Ohio, ex rel. Jonak v. *White, et al.,* Members of the Industrial Commission of Ohio, 136 Ohio State 213, 310 U. S., 609.

Motion to Dismiss or Affirm

For the foregoing reasons, and based upon the foregoing authorities, this appellee moves that the Court dismiss the appeal of this appellant or affirm the judgment of the Supreme Court of Ohio entered on the nineteenth day of July, A. D. 1944, in favor of this appellee.

THOMAS J. HERBERT,
Attorney General of the State of Ohio,
Attorney for Defendant-Appellee.